

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION CORPORATION, Plaintiff-Applicant, v. BERNARD L. MADOFF INVESTMENT SECURITIES LLC, Defendant.	Adv. Pro. No. 08-01789 (CGM) SIPA Liquidation (Substantively Consolidated)
In re: BERNARD L. MADOFF, Debtor.	
IRVING H. PICARD, Trustee for the Substantively Consolidated SIPA Liquidation of Bernard L. Madoff Investment Securities LLC and the Chapter 7 Estate of Bernard L. Madoff, Plaintiff, v. ZCM ASSET HOLDING COMPANY (BERMUDA) LLC, Defendant.	Adv. Pro. No. 12-01512 (CGM)

**STIPULATION AND ORDER AMENDING
COMPLAINT AND SETTING BRIEFING SCHEDULE**

Irving H. Picard, as trustee (the “Trustee”) for the substantively consolidated liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa-III, and the Chapter 7 estate of Bernard L. Madoff, and defendant ZCM Asset Holding Company (Bermuda) Limited (“ZCM”), by and through their respective undersigned counsel, hereby stipulate and agree as follows:

WHEREAS, on April 12, 2012, the Trustee filed a complaint (the “Complaint”) in the above-captioned adversary proceeding, ECF No. 1, against ZCM (together with the Trustee, the “Parties”) to recover subsequent transfers ZCM allegedly received from Fairfield Sentry Limited (“Fairfield Sentry”) and Kingate Global Fund Ltd. (“Kingate Global”);

WHEREAS, ZCM is incorrectly named in the caption and on the docket, with its correct name being “ZCM Asset Holding Company (Bermuda) Limited”, as reflected in prior filings ZCM has made with the Court. *See, e.g., Supplemental Memorandum of ZCM Asset Holding Company (Bermuda) Limited in Reply to the Trustee’s Opposition to the Motion to Dismiss Based on Extraterritoriality*, ECF No. 70; and

WHEREAS, on August 6, 2019, the Court entered an Order Pursuant to Section 105(a) of the Bankruptcy Code and Rules 2002 and 9019 of the Federal Rules of Bankruptcy Procedure approving a settlement agreement (“Settlement Agreement”) by and among the Trustee and Kingate Global and Kingate Euro Fund, Ltd. (“Kingate Euro,” and together with Kingate Global, the “Kingate Funds”). *Picard v. Ceretti*, Adv. Pro. No. 09-01161 (CGM) (Bankr. S.D.N.Y. Aug. 6, 2019), ECF No. 417. The Settlement Agreement was a full and final settlement and satisfaction of the Trustee’s claims against the Kingate Funds. *Picard v. Ceretti*, Adv. Pro. No. 09-01161 (CGM) (Bankr. S.D.N.Y. July 17, 2019), ECF No. 413-2. The release granted by the Trustee in the Settlement Agreement extended to the Kingate Funds’ shareholders to the extent that any such shareholders, like ZCM, received transfers of money from the Kingate Funds, but did not include a release of claims that the Trustee may bring that are unrelated to the Kingate Funds’ investments in or withdrawals from BLMIS. *Id.*

IT IS HEREBY STIPULATED AND AGREED, that:

1. The Clerk of the Court is hereby directed to amend the caption to change the name of defendant ZCM Asset Holding Company (Bermuda) LLC to “ZCM Asset Holding Company (Bermuda) Limited”, as reflected in Exhibit A to this Stipulation and Order.

2. Pursuant to Federal Rule of Bankruptcy Procedure 7015, and Federal Rule of Civil Procedure (“FRCP”) 15(a)(2), the Trustee amends his Complaint to dismiss Count One.

3. Pursuant to Federal Rule of Bankruptcy Procedure 7015, and FRCP 15(a)(2), the Trustee amends his Complaint to dismiss Count Two of the Complaint solely as to the Trustee’s claims to recover subsequent transfers that ZCM allegedly received from Fairfield Sentry on or about January 17, 2003 in the amount of \$619,036, March 14, 2003 in the amount of \$2,325,000, and April 14, 2003 in the amount of \$300,000, as identified in Exhibit F to the Complaint.

4. Except as expressly set forth herein, this Stipulation and Order has no effect on Count Two of the Complaint as to any other alleged transfers identified in the Complaint, including the other alleged transfers identified in Exhibit F to the Complaint. Accordingly, the Trustee continues to seek recovery of the remaining subsequent transfers that ZCM allegedly received from Fairfield Sentry totaling \$21,247,755.

5. The Complaint, together with paragraphs 1 through 4 in this Stipulation and Order, are deemed to be the Amended Complaint (“Amended Complaint”) in this adversary proceeding.

6. ZCM will answer, move or otherwise respond to the Amended Complaint on or before June 30, 2023. If ZCM files a motion to dismiss the Amended Complaint, such motion shall set forth any and all grounds for dismissal at the pleading stage.

7. The Trustee will file any opposition to ZCM’s motion on or before August 31, 2023.

8. ZCM will file any reply brief in support of its motion on or before October 2, 2023.
9. If ZCM files such a motion to dismiss the Amended Complaint, the parties may seek oral argument on the motion at the Court's first available convenience.
10. Except as expressly set forth herein, the Parties reserve all rights and defenses they may have, and entry into this Stipulation and Order shall not impair or otherwise affect such rights and defenses.
11. The above deadlines are without prejudice to either party seeking future extensions of time.
12. This Stipulation and Order may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photocopy, or electronic copy of this Stipulation shall be deemed an original.

Dated: April 20, 2023
New York, New York

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Liquidation of Bernard L. Madoff Investment
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Liquidation of Bernard L. Madoff Investment
Securities LLC and the Chapter 7 Estate of
Bernard L. Madoff*

SO ORDERED.

**Dated: April 21, 2023
Poughkeepsie, New York**



/s/ Cecelia G. Morris

**Hon. Cecelia G. Morris
U.S. Bankruptcy Judge**